

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:09-CR-00004-BR
NO: 5:11-CV-129-BR

RONALD FISHMAN,
Petitioner,

v.

UNITED STATES OF AMERICA
Respondent.

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ORDER

This matter is before the court on petitioner's 29 April 2011 motion for "clarification" of whether his 28 U.S.C. § 2255 motion was timely filed.

By way of background, petitioner's judgment of conviction was entered on 12 March 2010. On 22 March 2011, petitioner filed the § 2255 motion. Because the motion petitioner filed does not substantially follow the form appended to the Rules Governing § 2255 Proceedings, the Clerk was directed to send petitioner a copy of the appropriate form, and petitioner was directed to return the completed form within 15 days. Petitioner has not returned the form as directed. The only filing since that order is the instant motion. On the appropriate § 2255 form in response to question 18, petitioner can provide an explanation as to why he believes his § 2255 motion is timely. The court will not rule on the issue prior to petitioner's filing of the correct form.

The Clerk is DIRECTED to send another copy of the appropriate form to petitioner. Petitioner is DIRECTED to return the completed form within 15 days of the filing of this order to:

Clerk of Court
United States District Court, E.D.N.C.
ATTN: Prisoner Litigation Division
P.O. Box 25670
Raleigh, NC 27611

Petitioner is again warned that failure to timely return the completed form may result in the dismissal of this action or the striking of the motion.

The motion for clarification is DENIED WITHOUT PREJUDICE.

This 17 June 2011.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is written over a horizontal line.

W. Earl Britt
Senior U.S. District Judge